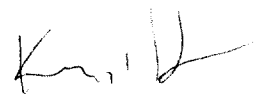


**A RESOLUTION BY**

**COUNCILMEMBER ANNE FAUVER**

**09-R-1066**



**A RESOLUTION EXTENDING THE TIME OF OPERATION OF THE TRANSFERABLE DEVELOPMENT RIGHTS SPECIAL USE PERMIT APPROVED BY ORDINANCE 08-O-1145 (U-08-19); AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta Code of Ordinances provides for the transfer of development rights in Section 16-28.023 so that certain types of uses can be preserved by making it possible to transfer their unused development rights to other locations so that certain increases in density of allowable uses can be accomplished to accommodate development without rezoning; and

**WHEREAS**, the City Council did on 18 August 2008 adopt and the Mayor on 26 August 2008 approve Ordinance 08-O-1145 (U-08-19) which ordinance authorized the transfer of certain development rights from 990 Peachtree Street (Sending property) to 1138 Peachtree Street (Receiving property), subject to filing of executed affidavits from the owners of the Sending and Receiving properties; and

**WHEREAS**, said executed affidavits have not yet been filed due to temporary financing delays attributable to financial market conditions, and hence, said development rights have not been consummated nor transferred from the Sending property and are still retained by the Sending property; and

**WHEREAS**, the owners of the Sending property and the Receiving property wish to extend the effective date of this ordinance so as to allow the Sending and Receiving property owners up to two (2) additional years to complete the transfer transaction and thus consummate the transfer of development rights in accordance with the terms of the TDR Ordinance; and

**WHEREAS**, the City of Atlanta Code of Ordinances authorizes the extension of the transfer of development rights permit in Section 16-28.023(11); now therefore,

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES** that the effective date of the transfer of development rights for the application approved by Ordinance 08-O-1145 (U-08-19) (copy attached) is hereby extended from 26 August 2008 to 26 August 2010, so that the expiration deadlines (12 or 24 months as applicable) set forth in Section 16-28.023(11) shall be computed beginning from the extended effective date herein of 26 August 2010. This special use permit U-08-19 shall not be deemed consummated nor shall any changes to the official zoning map transferring density occur until all agreements required by Section 16-28.023(5) are executed and filed with the Bureau of Planning and Law Department.

08-0-1145

(Do Not Write Above This Line)

AN ORDINANCE U-08-19  
BY ZONING COMMITTEE

AN ORDINANCE  
GRANTING A SPECIAL  
USE PERMIT FOR THE  
TRANSFER OF EXCESS  
DEVELOPMENT DENSITY  
FROM PROPERTY  
LOCATED AT 990  
PEACHTREE STREET,  
N.E. (SENDING PARCEL)  
TO PROPERTY LOCATED  
AT 1138 PEACHTREE  
STREET, N.E. (RECEIVING  
PARCEL); AND FOR  
OTHER PURPOSES.

ADOPTED BY

AUG 1 8 2008

COUNCIL

RECOMMENDED

- ☐ CONSENT REFER  
☐ REGULAR REPORT REFER  
☐ ADVERTISE & REFER  
☐ 1st ADOPT 2nd READ & REFER

Date Referred 6-2-08

Referred To: 248/250(rev)

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_

Committee

248/250

July 30, 2008

Chair

Rev, Adv, Held (see rev. side)

Others

Members

As Adopted

Refer To

Committee

Date

Chair

Rev, Adv, Held (see rev. side)

Others

Members

Refer To

Committee

Date

Chair

Rev, Adv, Held (see rev. side)

Others

Members

Committee

Date

Chair

Rev, Adv, Held (see rev. side)

Others

Members

COUNCIL ACTION

- ☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☐ Consent ☐ V Vote ☐ RC Vote

CERTIFIED

CERTIFIED  
AUG 1 8 2008

AUG 1 8 2008

APPROVED  
MAYOR'S ACTION

AUG 2 6 2008

MAYOR



City Council  
Atlanta, Georgia

**08-O-1145**

AN AMENDED ORDINANCE  
BY: ZONING COMMITTEE

**U-08-19**

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT  
FOR THE TRANSFER OF EXCESS DEVELOPMENT  
DENSITY FROM PROPERTY LOCATED AT 990  
PEACHTREE STREET, N.E. (SENDING PARCEL) TO  
PROPERTY LOCATED AT 1138 PEACHTREE STREET,  
N.E. (RECEIVING PARCEL); AND FOR OTHER  
PURPOSES.**

**WHEREAS**, the City Council finds that it is in the public interest to allow the owners of historic designated properties to transfer their development density to adjacent properties; and

**WHEREAS**, the Atlanta Historical Society, Inc. (Atlanta History Center), through its subsidiary AHA/MMH, LLC owns the entire block at 990 Peachtree Street, upon which is located the Margaret Mitchell House and Commercial Row; and

**WHEREAS**, the Atlanta Historical Society seeks to transfer a portion of the residential development rights from the property at 990 Peachtree Street to a receiving property located at 1138 Peachtree Street; and

**WHEREAS**, the sending property at 990 Peachtree Street will not be altered by the transfer of development rights; and

**WHEREAS**, the owners of the sending and receiving parcel will enter into an agreement within 30 days after the approval of the special permit to transfer excess development rights and shall provide the executed affidavit to the City of Atlanta Bureau of Planning and the City of Atlanta Law Department to be recorded in the real property records in the Office of the Clerk of Superior Court, Fulton County, Georgia; and

**WHEREAS**, the transfer of development rights will result in 19, 851 square feet of residential development to be transferred from at 990 Peachtree Street to a receiving property located at 1138 Peachtree Street.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:**

**SECTION 1.** Under the provisions of (Section 16-28.023 of the Zoning Ordinance of the City of Atlanta, a Special Use Permit for a Transfer of Excess Development Rights is hereby approved. Said use is granted to TP 1138 Peachtree , LLC, its successors, assigns



and all subsequent owners. The sending and receiving parcels are more particularly described by the attached legal descriptions and/or surveys.

SECTION 2. That this amendment is approved under the provisions of Section 16-25.003 of the Zoning Ordinance of the City of Atlanta, entitled "Special Use Permits, Procedural Requirements", and the Director, Bureau of Buildings, shall issue a building permit only in compliance with the applicable provisions of this part. The Special Use Permit hereby approved does not authorize the violation of any zoning district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the Special Use Permit, including the executed agreements shall be recorded with the Clerk of Superior Court of Fulton County in accordance with the provisions of Section 16-28.023 (4).

SECTION 4. That the Special Use Permit shall be recorded by the Bureau of Planning on the official zoning map (referencing both the Donor and Recipient parcels) in accordance with the provisions of Section 28.023 (4).

SECTION 5. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

A true copy,

Deputy Municipal Clerk

ADOPTED as amended by the City Council  
APPROVED by the Mayor

AUG 18, 2008  
AUG 26, 2008

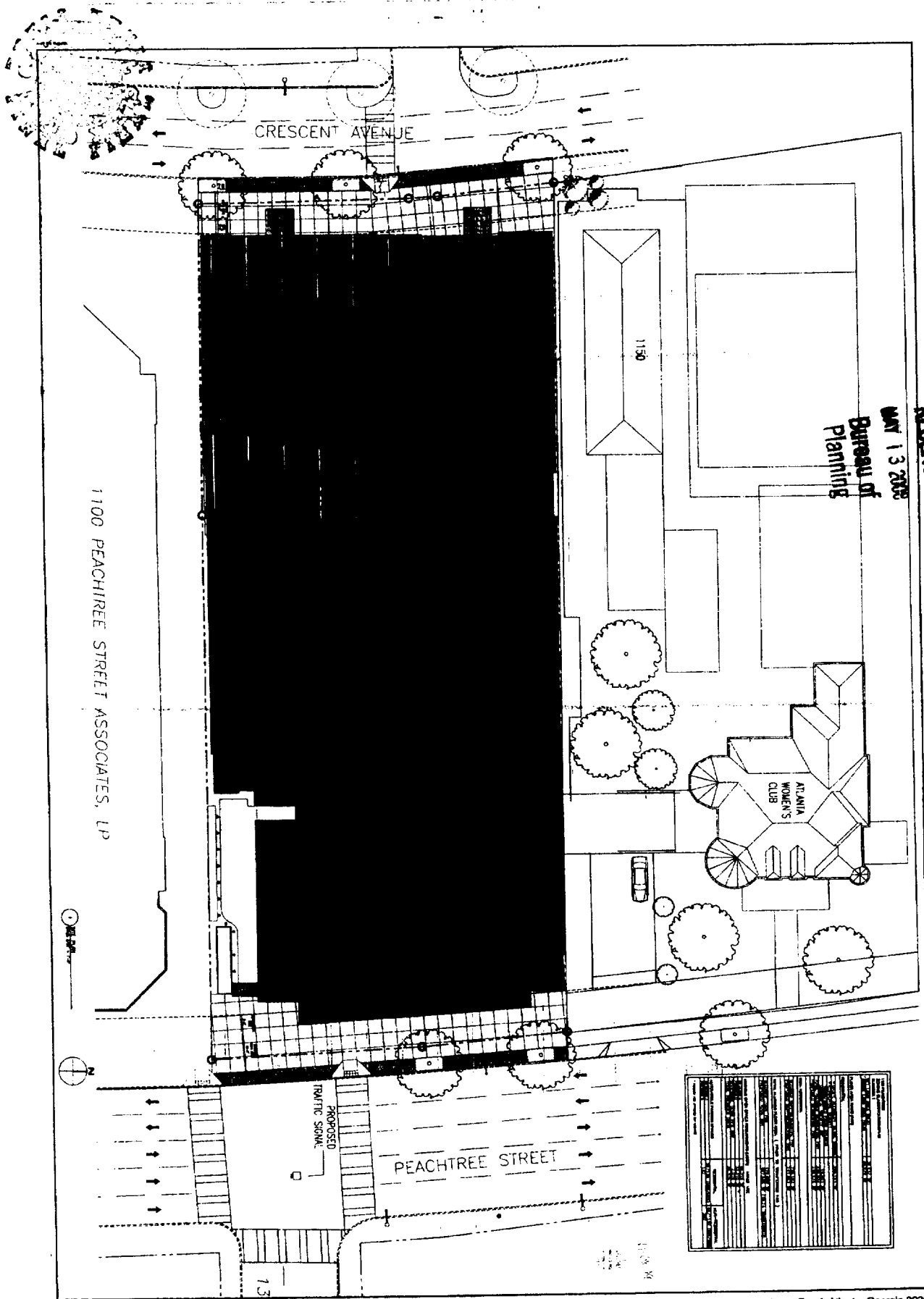


**Conditions for U-08-19 for Transfer of Development Rights**

**Sending property: 990 Peachtree Street, N.E.**

**Receiving Property: 1138 Peachtree Street, N.E.**

1. Site plan in concept with the plan entitled "1138 Peachtree St.," dated May 12, 2008 and received by the Bureau of Planning on May 13, 2008.
2. All agreements, assignments and affidavits submitted with the application submitted to the Bureau of Planning on May 13, 2008 and supplemental information entitled 'TDR Rights' submitted to the Bureau of Planning on June 24, 2008 for a Special Use Permit to transfer a total of 19,851 square feet of residential development rights from 990 Peachtree Street, N.E. to 1138 Peachtree Street, N.E.



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Bureau of Planning

U-08-19

Smallwood, Reynolds, Stewart, Stewart & Associates, Inc. Architects

One Piedmont Center, Suite 303 3565 Piedmont Road Atlanta, Georgia 30305

SITE PLAN  
1138 PEACHTREE STREET  
1138 PEACHTREE STREET  
ATLANTA, GA

Tivoli PROPERTIES

DATE: 05/13/08	BY: [Signature]
CHECKED: [Signature]	SCALE: AS SHOWN
PROJECT: 1138 PEACHTREE STREET	CLIENT: TIVOLI PROPERTIES
ARCHITECT: SMALLWOOD, REYNOLDS, STEWART, STEWART & ASSOCIATES, INC.	DATE: 05/13/08

NOT INTENDED FOR CONSTRUCTION



**LEGAL DESCRIPTION  
990 PEACHTREE STREET, N.E.  
ATLANTA, GA  
DONOR/SENDING PARCEL**

**ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 106 of the 17<sup>th</sup> District of Fulton County, Georgia, and being more particularly described as follows:**

**BEGINNING** at the point of intersection of the northeasterly right-of-way line of Crescent Avenue (variable width right-of-way) and the northerly right-of-way line of Peachtree Place (variable width right-of-way), said point being the **POINT OF BEGINNING**, and running thence in a northwesterly direction along Crescent Avenue the following courses and distances: North 26°16'35" West a distance of 80.08 feet to a point; running thence North 26°46'22" West a distance of 77.00 feet to a point; running thence North 26°29'12" West a distance of 50.23 feet to a 1 inch hollow pipe found; running thence North 84°42'02" East a distance of 3.21 feet to a point; running thence North 26°30'24" West a distance of 8.86 feet to a point; thence leaving said right-of-way and running thence in a northeasterly direction along 10<sup>th</sup> Street (variable width right-of-way) along the arc of a curve to the right, said arc having a chord bearing of North 68°44'51" East and a distance of 101.80 feet, and a radius of 237.00 feet an arc distance of 102.60 feet to a point; running thence North 81°08'56" East a distance of 79.00 feet to a point; running thence along the arc of a curve to the right, said arc having a chord bearing of South 49°59'38" East a distance of 9.04 feet; and a radius of 6.00 feet, an arc distance of 10.24 feet to a point; thence leaving said right-of-way and running in a southeasterly direction along Peachtree Street (variable width right-of-way) the following courses and distances: South 01°08'12" East a distance of 66.66 feet to a point; running thence along the arc of a curve to the left, said arc having a chord bearing of South 05°11'56" East and a distance of 86.06 feet, and a radius of 607.43 feet, an arc distance of 86.13 feet to a point; running thence along the arc of a curve to the right, said arc having a chord bearing of South 05°11'56" East and a distance of 76.29 feet and a radius of 538.46 feet, an arc distance of 76.35 feet to a point; thence leaving said right-of-way and running thence in a southwesterly direction along Peachtree Place (variable width right-of-way) South 85°10'32" West a distance of 102.96 feet to a point, said point being the **POINT OF BEGINNING**.

Said tract contains 0.76 acres as shown on and described according to that certain ALTA Survey for The Margaret Mitchell Museum, Inc., dated July 12, 2004, prepared by Tru-Line Surveying Inc. and bearing the signature and seal of W. E. Klontz, Ga. Registered Land Surveyor No. 2166.



*Receiving Parcel*

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MAY 13 2008  
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of  
Planning

**Exhibit "A"**

**LEGAL DESCRIPTION**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 106, 17th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

COMMENCING at the intersection of southerly right-of-way of Fourteenth Street (right-of-way varies) and the westerly right-of-way of Peachtree Street (right-of-way varies); THENCE proceeding southerly along said right-of-way of Peachtree Street 309.66 feet to ½" rebar found, said point being the POINT OF BEGINNING; THENCE continuing along said right-of-way of Peachtree Street the following courses and distances: South 03 degrees 58 minutes 50 seconds East a distance of 52.14 feet to a railroad spike found and South 01 degrees 47 minutes 16 seconds East a distance of 75.00 feet to a nail set; THENCE leaving said right-of-way of Peachtree Street and proceeding North 88 degrees 35 minutes 21 seconds West a distance of 312.76 feet to a ½" rebar set on the easterly right-of-way of Crescent Avenue (50 feet right-of-way); THENCE proceeding along said right-of-way of Crescent Avenue the following courses and distances; North 00 degrees 09 minutes 10 seconds East a distance of 74.90 feet to a point; North 02 degrees 39 minutes 31 seconds West a distance of 10.19 feet to a point and North 04 degrees 58 minutes 21 seconds West a distance of 42.00 feet to a ½" rebar set; THENCE leaving said right-of-way of Crescent Avenue and proceeding South 88 degrees 35 minutes 21 seconds East a distance of 310.71 feet to the POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND contains 39,432 square feet or 0.91 acres.

SAID TRACT shown on that certain survey entitled "ALTA/ACSM As Built Survey: TP 1138 Peachtree, LLC; Georgian Bank (Its Successors and/or Assigns); Chicago Title Insurance Company and Calloway Title & Escrow LLC.", prepared by Travis Pruitt & Associates, Inc., bearing the seal and certification of Jon G. Adams, Georgia Registered Land Surveyor No. 2768, dated October 30, 2007, last revised November 1, 2007.





**990 Peachtree Street, N.E. (Sending Property)  
Joint Special Use Permit for TDR  
Atlanta Historical Society, Inc.**

**TRANSFER OF DEVELOPMENT RIGHTS CALCULATIONS  
FOR  
SENDING PROPERTY 990 PEACHTREE STREET, N.E.**

MAY 13 1998

**Zoning**

SPI-16 Subarea 1 / LBS / HBS within Transit Station Area.

**Land Area**

Net lot area:	33,017 SF
Gross lot area:	67,269 SF
10 <sup>th</sup> Street:	11,171
Peachtree St.:	11,160
Crescent Ave.:	6,749
Peachtree Place:	5,172
Net lot area (above):	<u>33,017</u>
Total:	67,269

**Residential Development Rights Available**

- Base Residential Density:  
 $3.2 \text{ (FAR)} \times 33,017 \text{ (net lot area)} = 105,654 \text{ SF}$
- Transit Station Area Residential Density:  
 $3.2 \text{ (FAR)} \times 33,017 \text{ (net lot area)} = 105,654 \text{ SF}$
- Total Residential Density based on net lot area = 211,308 SF
- Open Space Residential Bonus:  
 $6.4 \text{ (FAR of combined base and transit station)} \times 67,269 \text{ SF (gross lot area)} = 430,522 \text{ SF}$   
This equals additional residential density of 219,214 SF (430,522 gross total minus 211,308 net total = 219,214 attributable to open space residential bonus.)
- Existing on-site residential development: None.



**990 Peachtree Street, N.E. (Sending Property)  
Joint Special Use Permit for TDR  
Atlanta Historical Society, Inc.**

Total Additional Residential Density Based Upon Open Space Bonus: 219,214 SF

- Previously Transferred Residential Density: 116,781 SF<sup>1</sup>

**Total Residential Density Transferred to 1138 Peachtree Street<sup>2</sup>**

19,851 SF

**Total Residential Density Remaining On Donor Site (990 Peachtree St.)**

1. Based Upon Net Lot Area:  
211,308 SF  
- 19,851 SF (see footnote 2)  
191,457 SF
2. Based Upon Gross Lot Area / Open Space Bonus:  
219,214 SF  
- 116,781 SF (see footnote 1)  
102,433 SF
3. Total Residential Density Remaining: 191,457 + 102,433 = 293,890 SF

**Parking**

No change from existing conditions.

**NOTE: In addition to the residential density remaining on donor site, all other development rights also are retained on donor site (990 Peachtree St.) including non-residential, mixed use, and other bonuses not addressed above.**

<sup>1</sup> See U-08-014.

<sup>2</sup> Since 1138 Peachtree Street Project will reduce open space requirements, the 19,851 SF transferred must be deducted from available net density, not available open space bonus density.

RCS# 2311  
8/18/08  
9:24 PM

Atlanta City Council

REGULAR SESSION

MULTIPLE

08-O-0515, 08-O-1136, 08-O-1139, 08-O-1140  
08-O-1143, 08-O-1145, 08-O-1146  
ADOPT AS AMEND

YEAS: 14  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 1  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	B Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

MULTIPLE